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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Benfey et al.

Application No.: 09/265,585

Group Art Unit: 1646

Filed: March 10, 1999

Examiner: Kemmerer, E.

For: SCARECROW GENE, PROMOTER  
AND USES THEREOF

Atty. Docket No.: 5914-066

**SUPPLEMENTAL INFORMATION DISCLOSURE  
STATEMENT UNDER 37 C.F.R. § 1.56 AND § 1.97**

Assistant Commissioner for Patents  
Washington, D.C. 20231

SIR:

In accordance with the continuing duty of disclosure imposed by 37 C.F.R. § 1.56 and § 1.97 to inform the Patent and Trademark Office of all references coming to the attention of each individual associated with the filing or prosecution of the subject application, which are or may be material to the patentability of any claim of the application, Attorneys for Applicants hereby direct the Examiner's attention to references BW-BZ and CA-CF listed on the attached revised form PTO 1449 entitled "List of References Cited by Applicant." A copy of each of references BW, CA, CB, CD and CF is enclosed.

Reference BX was filed in the Patent and Trademark Office as United States Patent Application Serial No. 08/842,445, filed April 24, 1997, to which the instant application claims priority pursuant to 35 U.S.C. § 120. A copy of each of references CC and CE was either submitted to the Patent Office or made of record in connection with United States Patent Application Serial No. 08/842,445, filed April 24, 1997, to which the instant application claims priority pursuant to 35 U.S.C. § 120. Pursuant to 37 C.F.R. § 1.98(d), the Examiner is directed to the file of United States Patent Application Serial No. 08/842,445 for copies of references BX, CC and CE.

Reference BY was filed in the Patent and Trademark Office as United States Patent Application Serial No. 09/186,188, filed November 5, 1998. Serial No. 09/186,188 is a divisional application of United States Patent Application Serial No. 08/842,445, filed April

24, 1997, to which the instant application claims priority pursuant to 35 U.S.C. § 120. Pursuant to 37 C.F.R. § 1.98(d), the Examiner is directed to the file of United States Patent Application Serial No. 09/186,188 for a copy of reference BY.

Reference BZ was filed in the Patent Office as United States Patent Application Serial No. 09/186,276, filed November 5, 1998. Serial No. 09/186,276 is a divisional application of United States Patent Application Serial No. 08/842,445, filed April 24, 1997, to which the instant application claims priority pursuant to 35 U.S.C. § 120. Pursuant to 37 C.F.R. § 1.98(d), the Examiner is directed to the file of United States Patent Application Serial No. 09/186,276 for a copy of reference BZ.

Identification of the listed references is not to be construed an admission of Applicant or Attorneys for Applicants that such references are available as "prior art" against the subject application. Consequently, Applicants respectfully decline to use form PTO-1449, since this form identifies all of the references cited therein as "Prior Art." As an alternative, Applicants submit herewith a "revised form PTO 1449" entitled "List of References Cited" instead of "List of Prior Art Cited."

Applicants respectfully request that the Examiner review the foregoing references and that the references be made of record in the file history of the application.

Since this Information Disclosure Statement is being filed before the mailing of a first Office Action on the merits, Applicants believe that no fee is due in connection with its filing. However, should the Patent and Trademark Office determine otherwise, please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date: September 12, 2001

  
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